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10/810,423	03/29/2004	Richard D. Jones		9789

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EXAMINER

NEGRON, ISMAEL

ART UNIT PAPER NUMBER

2875

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/810,423	<b>Applicant(s)</b> JONES, RICHARD D.	
	<b>Examiner</b> Ismael Negron	<b>Art Unit</b> 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 9 and 16 is/are rejected.
- 7) ☒ Claim(s) 1, 4, 8 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/29/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Title*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Positional Responsive **Device for Illuminating Traffic Signs** and System.

### *Drawings*

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “7” has been used to designate both “*longitudinal axis*” (page 7, line 4) and “*aperture*” (page 7, line 12). In addition, note the following:

- reference character “5”, used to designate “*aperture*” (page 7, line 14) and “*lighting means*” (page 7, line 15);
- reference character “28”, used to designate “*switch*” (page 8, line 8) and “*receiver*” (page 9, line 7);
- reference character “4”, used to designate “*lighting means*” (page 7, line 2) and “*light emitting diode array*” (page 9, line 25); and
- reference character “6”, used to designate “*lighting means*” (page 7, line 3) and “*light emitting diode array*” (page 9, line 25).

The applicant is advised that the reference characters must be properly applied, with no single reference character being used for two different parts or for a given part and a modification of such part. See MPEP §608.01(g). Correction is required.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "2" has been used to designate different parts in different embodiments. See Figures 7 and 11. In addition, note the following:

- reference character "4", as used in Figures 7 and 11;
- reference character "6", as used in Figures 7 and 11;
- reference character "18", as used in Figures 7 and 11; and
- reference character "19", as used in Figures 7 and 11.

4. Applicant is further advised that this action only exemplifies the objections to the drawings, applicant's cooperation is requested in correcting all the occurrences of the cited, or any other errors of which applicant may become aware in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

5. The disclosure is objected to because of the following informalities:

- lines 9-1 of page 6 should be deleted;
- page 7, line 3 should read "6 which are directionally opposite to each other. There is a ~~slit or groove~~ or slit 8 which is";
- page 7, line 4 should read "between illumination lighting means 4 and illumination lighting means 6 and along the longitudinal axis 7";
- page 7, lines 21-23 should read "FIG. 3 discloses structure sign 10 which is partially inserted into hand-held device 2. As structure sign 10 is positioned into slit 8, the ~~internal-side~~ interior surface 13 and ~~internal-side~~ interior surface 15 of the slit 8 (FIG. 2A) grasp structure sign 10 to securely hold structure sign 10";
- page 7, line 26 should read "illumination device means 6 to be selectively illuminated. Power supply 12 may be connected to";
- page 8, line 12 should read "A schematic of the electrical connections of hand-held device 2 and ~~remote~~";
- page 8, lines 14-18 should read "means 20 which is positionally responsive to cause switching means 20 to be in a closed position when hand-held device 2 is caused to be in a predetermined posture. When switching means 20 is closed, lighting ~~means~~ means 4 and lighting means 6 are energized. When the position of hand-

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- held device 2 is changed, switching means 20 will open to thus cause lighting means 4 and lighting means 6 to be extinguished (the electric current power supply 12 is disconnected from said";
- page 9, line 3 should read "the art receiver 26 to cause switching means 28 to be closed to thus cause illumination";
  - page 9, line 9 should read "means 6 thereon to be extinguished (switching means 20 is open) and switching means 22 is position A, the";
  - page 9, line 11 should read "switching means 28 to open to extinguish illumination means (lights) 14 and illumination means 16";
  - page 10, lines 17 and 18 should read "motorists, the recognition factor may be improved by positioning an illumination lighting means 80 on top of cone 82. ~~illumination~~ Lighting means 80 may be illuminated during certain times as";
  - page 10, line 23 should read "24 (FIG. 12) will cause a signal to be transmitted to receiver 26 to thus cause ~~illumination~~ lighting";
  - page 9, line 25 should read "~~illumination~~ Lighting means 80 is further disclosed in FIG. 8 to disclose lighting means 84a";
  - page 11, lines 1-4 should read "it is disclosed that a lighting means is disposed on each side of ~~illumination~~ lighting means 80 except for the bottom side, it is not necessary that each side of ~~illumination~~

**lighting** means 80 be illuminated as only one selected side may be lighted as determined by the environment of use. Each side 84, 86, 88, 90 and 92 of illumination **lighting** means 80 may be identical as shown”;

- page 11, line 6 should read “~~Illumination~~ **Lighting** means 80 may be an array of light emitting diodes. For example,”; and
- page 11, line 10 should read “~~illumination~~ **lighting** means 80 may be comprises **comprised** of selected lighting means. Lighting means 84”.

Appropriate correction is required.

### ***Claim Objections***

6. Claim 1 is objected to because of the following informalities: it recites the limitation “*said lighting means*” in line 14. There is insufficient antecedent basis for this limitation in the claim.

The cited lack of antecedent instances do not amount to indefiniteness under 35 U.S.C. 112, second paragraph, since it is readily apparent that the claims are referring back to the previously recited “*illumination means*” (line 5). However, appropriate correction is required to place the claims in proper form for allowance.

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7. Claim 4 is objected to because of the following informalities: line 4 should read "light emitting diodess." Appropriate correction is required.

8. Claim 8 is objected to because of the following informalities: it recites the limitation "*said lighting means*" in line 12. There is insufficient antecedent basis for this limitation in the claim.

The cited lack of antecedent instances do not amount to indefiniteness under 35 U.S.C. 112, second paragraph, since it is readily apparent that the claims are referring back to the previously recited "*illumination means*" (line 5). However, appropriate correction is required to place the claims in proper form for allowance.

9. Claim 11 is objected to because of the following informalities: line 4 should read "remote illumination device is extinguisheds." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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10. Claims 1-3, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by PREISLER (U.S. Pat. 6,239,691).

11. PREISLER discloses a sign illumination apparatus having:

- **a handle (as recited claims 1 and 8), Figure 1, reference number 16;**
- **the handle having a longitudinal axis (as recited claims 1 and 8), inherent;**
- **illumination means (as recited claims 1 and 8), Figure 2, reference number 12;**
- **the illumination means including at least one lighting means (as recited claims 1 and 8), Figure 2, reference number 14;**
- **a slit (as recited claims 1 and 8), Figure 2, reference number 38;**
- **the slit being in alignment with the longitudinal axis of the apparatus (as recited claims 1 and 8), as evidenced by Figure 3;**
- **the slit having a first and second side (as recited claims 1 and 8), Figure 3, reference number 36;**
- **the slit having a longitudinal axis (as recited claims 1 and 8), as evidenced by Figure 3;**
- **the slit having a width between the first and said second side (as recited claims 1 and 8), as seen in Figure 3;**
- **the slit having a length along the slit longitudinal axis (as recited claims 1 and 8), as seen in Figure 3;**

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- **the length being in alignment with the apparatus longitudinal axis (as recited claims 1 and 8), as Evidenced by Figure 3;**
- **the slit having a depth perpendicular to the apparatus longitudinal axis (as recited claims 1 and 8), as seen in Figure 2;**
- **the slit being dimensioned to forcibly receive a sign (as recited claims 1 and 8), as evidenced by column 3, lines 10-29;**
- **positionally sensitive switching means (as recited claims 1 and 8), Figure 4, reference number 22;**
- **the switching means being for selectively connecting a power supply means to the illumination means (as recited claims 1 and 8), as seen in Figure 4;**
- **the lighting means being energized when the apparatus is in a predetermined position (as recited claims 1 and 8), column 2, lines 61-66;**
- **the first side and second side of the slit having textured surfaces (as recited Claim 2), Figure 2, reference number 40;**
- **the texture surfaces being for removably securing a sign (as recited Claim 2), column 3, lines 26-29;**
- **the positionally sensitive switching means including a switch (as recited Claim 3), Figure 2, reference number 22;**
- **the switch being closed when the apparatus is in a vertical position (as recited Claim 3), column 2, lines 61-66;**

- **a controller (as recited Claim 9), Figure 4, reference number 26;**
- **the controller being electrically connected between a power supply and the lighting means (as recited Claim 9), as seen in Figure 4; and**
- **the controller causing the lighting means to be activated as selectively determined by the controller (as recited Claim 9), columns 2 and 3, lines 66 and 1, respectively.**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 4-6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over PREISLER (U.S. Pat. 6,239,691) in view of MUMFORD et al. (U.S. Pat. 6,407,675).

13. PREISLER discloses a sign illumination apparatus having:

- **a handle (as recited Claim 1), Figure 1, reference number 16;**

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- **the handle having a longitudinal axis (as recited Claim 1),**  
inherent;
- **illumination means (as recited Claim 1), Figure 2, reference**  
number 12;
- **the illumination means including at least one lighting means**  
**(as recited Claim 1), Figure 2, reference number 14;**
- **a slit (as recited Claim 1), Figure 2, reference number 38;**
- **the slit being in alignment with the longitudinal axis of the**  
**apparatus (as recited Claim 1), as evidenced by Figure 3;**
- **the slit having a first and second side (as recited Claim 1),**  
Figure 3, reference number 36;
- **the slit having a longitudinal axis (as recited Claim 1), as**  
evidenced by Figure 3;
- **the slit having a width between the first and said second side**  
**(as recited Claim 1), as seen in Figure 3;**
- **the slit having a length along the slit longitudinal axis (as**  
**recited Claim 1), as seen in Figure 3;**
- **the length being in alignment with the apparatus longitudinal**  
**axis (as recited Claim 1), as Evidenced by Figure 3;**
- **the slit having a depth perpendicular to the apparatus**  
**longitudinal axis (as recited Claim 1), as seen in Figure 2;**

- **the slit being dimensioned to forcibly receive a sign (as recited Claim 1), as evidenced by column 3, lines 10-29;**
- **positionally sensitive switching means (as recited Claim 1), Figure 4, reference number 22;**
- **the switching means being for selectively connecting a power supply means to the illumination means (as recited Claim 1), as seen in Figure 4; and**
- **the lighting means being energized when the apparatus is in a predetermined position (as recited Claim 1), column 2, lines 61-66.**

14. PREISLER discloses all the limitations of the claims, except:

- the illumination means including at least one array of light emitting diodes (as recited claims 4 and 16);
- the array including control means (as recited claims 4 and 16);
- the control means being for selectively determining the flashing sequence of the light emitting diodes (as recited Claim 4);
- the illumination means including at least one lighting means positioned for directing light onto and away from a surface of a sign (as recited Claim 5);
- the at least one lighting means including an aperture (as recited Claim 6);

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- the aperture being positioned on the periphery of the lighting means (as recited Claim 6);
- the aperture allowing light to be directed onto the surface of the sign (as recited Claim 6); and
- the light emitting diodes are energized in a desired configuration as determined by said controller (as recited in Claim 16).

15. MUMFORD et al. discloses a sign illumination apparatus having:

- **a handle (as recited Claim 1)**, as seen in Figure 1;
- **the handle having a longitudinal axis (as recited Claim 1)**, inherent;
- **illumination means (as recited Claim 1)**, Figure 3, reference number 16;
- **the illumination means including at least one lighting means (as recited Claim 1)**, Figure 5, reference number 36;
- **a slit (as recited Claim 1)**, Figure 2, reference number 12D;
- **the slit being in alignment with the longitudinal axis of the apparatus (as recited Claim 1)**, as evidenced by Figure 1;
- **the slit having a first and second side (as recited Claim 1)**, as seen in Figure 2;
- **the slit having a longitudinal axis (as recited Claim 1)**, inherent;
- **the slit having a width between the first and said second side (as recited Claim 1)**, as seen in Figure 2;

- **the slit having a length along the slit longitudinal axis (as recited Claim 1), as seen in Figure 2;**
- **the length being in alignment with the apparatus longitudinal axis (as recited Claim 1), as evidenced by Figure 2;**
- **the slit having a depth perpendicular to the apparatus longitudinal axis (as recited Claim 1), as seen in Figure 2;**
- **the slit being dimensioned to forcibly receive a sign (as recited Claim 1), as evidenced by Figure 1;**
- **a switch (as recited Claim 3), Figure 5, reference number 34;**
- **the illumination means including at least one array of light emitting diodes (as recited claims 4 and 16), column 3, lines 19-21;**
- **the array including control means (as recited claims 4 and 16), Figure 5, reference number 38;**
- **the control means being for selectively determining the flashing sequence of the light emitting diodes (as recited Claim 4), column 3, lines 25-27;**
- **the illumination means including at least one lighting means positioned for directing light onto and away from a surface of a sign (as recited Claim 5), as seen in Figure 1;**
- **the at least one lighting means including an aperture (as recited Claim 6), inherent;**

- **the aperture being positioned on the periphery of the lighting means (as recited Claim 6), as evidenced by Figure 1;**
- **the aperture allowing light to be directed onto the surface of the sign (as recited Claim 6), as evidenced by Figure 1; and**
- **the light emitting diodes are energized in a desired configuration as determined by said controller (as recited in Claim 16), column 3, lines 25-32.**

16. The examiner takes Official Notice that the use of LEDs is old and well known in the illumination art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the LED of MUMFORD et al. for the light source in the system of PREISLER. One would have been motivated since LEDs are recognized in the illumination art to have many desirable advantages, including reduced size, high efficiency, low power consumption, long life, resistance to vibrations, and low heat production, over other light sources, as evidenced by MUMFORD et al..

#### ***Relevant Prior Art***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Klink** (U.S. Pat. 1,263,072), **Reynolds** (U.S. Pat. 2,409,957), **Hoover** (U.S. Pat. 3,810,091), **Hegemann** (U.S. Pat. 5,276,424), **Clifford** (U.S. Pat. 5,694,110), **McClain**

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**et al.** (U.S. Pat. 6,134,819) and **Martinez** (U.S. Pat. 6,134,820) disclose signs having a handle, illumination means and switching means for controlling the illumination means to shine light on the sign panel surface. In some the sign panel is attached to the handle by means of a slit.

***Allowable Subject Matter***

18. Claims 7 and 10-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

19. The following is a statement of reasons for the indication of allowable subject matter:

Applicant teaches a positional responsive system for illuminating signs, such system including a hand-held device having a handle, illumination means, a slit for receiving a sign panel, first positionally responsive switching means for energizing the illumination means when the hand-held device is in a predetermined position, a transmitter and second positionally responsive switching means; the system also including a remote illumination device having second illumination means, a receiver and a power supply. The transmitter emitting a signal for turning the illumination means of the remote illumination device to turn ON or OFF in response to the second positionally

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responsive switching means detecting the hand-held device as being in a first or second predetermined position, respectively.

20. No prior art was found teaching individually, or suggesting in combination, all of the features of the applicants' invention, specifically the claimed system having a hand-held device and a remote illumination, such remote illumination device being controlled by the second positionally responsive switching means detecting the hand-held device as being in a first or second predetermined position, in combination with the recited structural limitations of the claimed invention.

### ***Conclusion***

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negron whose telephone number is (571) 272-2376. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached on (571) 272-2378. The facsimile machine number for the Art Group is (703) 872-9306.


22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications maybe obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.

*for*  
Inr

September 30, 2005

  
THOMAS M. SEMBER  
PRIMARY EXAMINER